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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,976	08/17/2001	Paul V. Haydock	018048-0011100US	7225

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EXAMINER

WILDER, CYNTHIA B

ART UNIT PAPER NUMBER

1637

DATE MAILED: 10/07/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

BEST AVAILABLE COPY

Office Action Summary

Application No.

09/830,976

Applicant(s)

HAYDOCK ET AL.

Examiner

Cynthia B. Wilder, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-40 and 48-90 is/are allowed.
- 6) ☐ Claim(s) 41-47 and 91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment filed in Paper No. 10 is acknowledged. Claims 1 and 2 have been amended. Claims 48-91 have been added. All of the amendment and arguments have been thoroughly reviewed and considered but are deemed moot in view of the new grounds of rejections. Any rejection not reiterated in this action has been withdrawn as being obviated by the amendment of the claims.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Previous Rejections

3. The previous rejections under 35 U.S.C. 112 second paragraph are withdrawn in view of applicant's amendment of the claims.

New Ground Rejection

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 41-45-47 and 91 are rejected under 35 U.S.C. 102(e) as being anticipated by Anderson et al. (US 6,168,948 B1). Regarding claims 41-43 and 91, Anderson et al teach an apparatus for detecting a target analyte, the apparatus comprising a solid support attached to a

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capture reagent which binds to the target analyte, wherein the solid support is coated with a non-stick coating material. The reference further teaches wherein the non-stick coating material is a silianizing agent such as silane (col. 20, lines 29-37 and col. 21, line 67 to col. 22, lines 1-3, see also col. 70, lines 54-57).

Regarding claim 44, Anderson et al. teach wherein the solid support may comprise planar wall having beads attached thereto such as e.g., magnetic beads (col. 47 line 63 to col. 48, line 5).

Regarding claims 45-46, Anderson et al. teach wherein the capture reagent is non-covalently attached to the solid support and wherein the capture reagent comprises an oligonucleotide which hybridizes to a polynucleotide which comprises the target analyte (col. 47, lines 63-65).

Regarding claim 47, Anderson et al. teach wherein the capture reagent comprises an antibody which binds to the target analyte (col. 47, lines 63-65). Therefore, Anderson et al meets the limitations of claims 41-47 and 91.

Conclusion

5. Claims 41-47 and 91 are not allowed. Claims 1-40 and 48-90 contain allowable subject matter.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia B. Wilder, Ph.D. whose telephone number is (703) 305-1680. The examiner can normally be reached on Monday through Thursday from 9:30 am to 6:30 pm and on Friday from 9:30 am to 1:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (703) 308-1119. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0196.

CYNTHIA WILDER
PATENT EXAMINER


Cynthia B. Wilder, Ph.D.
Examiner
Art Unit 1637

October 6,
~~September 27,~~ 2003